Remarks

In the Decision on Appeal, decided June 12, 2007, the Board of Patent Appeals and Interferences reversed the Examiner's rejection of claim 11. The Board also noted that the rejection of claim 7 was moot, as it had been withdrawn by the Examiner. Therefore, claim 7 is allowable. The Board also reversed the Examiner's rejection of independent claim 11. Therefore, claim 11 is now in condition for allowance. The Board, however, upheld all remaining rejections.

Applicant has amended independent claim 6 herein to incorporate the subject matter of claim 7. Therefore, in dependent claim 6 is now in condition for allowance. As the rejection of independent claim 11 under 35 U.S.C. § 112, second paragraph (the only rejection of claim 12) was reversed by the Board, claim 11 is now in condition for allowance. Claims 1-5, 7, 9-10, and 12 have been canceled, such that pending claims 6, 8, and 11 are in condition for allowance.

Notice of Other Pending Proceeding

Applicant wishes to make of record co-pending application serial number 10/630,460. That application is presently under rejection by the same Examiner of the present application. In fact, in an Office Action (mailed March 30, 2007) in that application, the Examiner noted his belief that this application, as well as the applications of now-issued patents 7,099,994 and 7,103,826 are all inter-related.

The undersigned disagrees. The undersigned spoke with Examiner Dang by telephone on July 17, 2007, to better understand Examiner Dang's position on this. In this regard, the present application and the copending '460 application share some common

figures and portions of the detailed description are common. Indeed, the undersigned drafted both applications, and explained to the Examiner (in the telephone discussion) that the applications were filed separately because they were believed to be patently distinct inventions. Indeed, the undersigned believes that, had the claims of the two applications been filed in a single application, the Patent Office would have issued a restriction requirement requiring them to be separated. Indeed, the claims of the two separate cases embody subject matter that is unique to each case (and not described in the co-pending application). For this reason, the two applications have not claimed a formal relationship to each other.

The applications of the two now-issued patents noted above have even less relation to the subject matter of the present invention, as both of those patents are directed to RAID memory systems.

During the telephone discussion, the undersigned inquired of the Examiner whether he could combine the allowable claims from this application with the allowable claims of the co-pending '460 application, so that only one patent would issue (and therefore require only one set of maintenance fees). Examiner Dang said that such an action may result in a restriction requirement, and that he had not yet considered the claims from that perspective. Instead, the Examiner indicated that he considered the applications be related because they include certain drawing figures, and portions of the specification, in common.

Simply stated, the undersigned disagrees. Notwithstanding, the undersigned does wish to make of record the existence of the co-pending '460 pending application and notes that there is some subject matter overlap between these applications. Therefore, the

Examiner should give the co-pending application a level of consideration that the Examiner believes to be appropriate to this application.

No fee is believed to be due in connection with this submission. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fees to deposit account No. 08-2025.

Respectfully submitted,

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